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EXAMINER

WHIPPLE, BRIAN P

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 10/632,160
Filing Date: July 31, 2003
Appellant(s): MIKAMI, YOSHIKO

Scott D. Paul
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 6/17/08 appealing from the Office action mailed 3/18/08.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gatz et al. (Gatz), U.S. Publication No. 2002/0049806 A1, in view of Walker et al. (Walker), U.S. Patent No. 6,286,001 B1.

As to claim 1, Gatz discloses a method for use in a network system comprising:
storing at a host computer profile information relating to individual users of the host computer ([0046], ln. 1-4; [0049], ln. 1-9),

the profile information for a first user and a second user identifying host applications that the first user and the second user, respectively, are permitted to execute ([0014], ln. 1-4; [0049], ln. 14-17; [0071]; [0073]; [0074], ln. 8-12; [0075]),

in response to a request from the first user identifying a list of one or more applications that the first user is permitted to execute, storing the list in the profile of the second user, whereby the second user is permitted to execute the applications in the list under control of the first user ([0014], ln. 1-4; [0049], ln. 14-17; [0071]; [0073]; [0074], ln. 8-12; [0075]; a parent has control, through an account based access control system, of access to an information network and may allow no, limited, or full access by a child to applications such as email, chatrooms, message boards, and online shopping; the parent identifies a list of applications that the child is allowed to access, and the parent is allowed to access due to full access rights, under the control of the parent).

It may be argued that the parent does not inherently have access to the applications of the child. However, this is a minor and obvious scenario. A parent controlling a child's access to applications, where the parent has access to the applications, is extremely well known in the art. Often, the child has access to applications due to a parent's past experience with them. For example, a common scenario is a parent getting an AOL account and then assigning one of the available screen names to a child. Therefore, both the parent and the child would have access to programs such as IM, email, chat rooms, etc. Walker discloses one scenario where a parent has access to all applications, including a browser, using a parental password, but where the child has been limited to only the browser application through the use of said password (Col. 9, ln. 61 – Col. 10, ln. 4).

Walker discloses permitting a first user to execute the programs being controlled by the first user for the second user (Col. 9, ln. 61 – Col. 10, ln. 4).

It would have been obvious to one of ordinary skill in the art to modify the teachings of Gatz by permitting a first user to execute the programs being controlled by the first user for the second user as taught by Walker in order to allow a user to access desired programs.

As to claims 5 and 9, the claims are rejected for the same reasons as claim 1 above.

As to claims 2 and 6, Gatz and Walker disclose the invention substantially as in the parent claim, including the host computer executes any version of the HTTP protocol (Gatz: [0043], ln. 5-10).

As to claims 3, 7, and 10, Gatz and Walker disclose the invention substantially as in the parent claim, including an application in the list when executed performs a service from the second user to the first user (Gatz: [0049], ln. 14-17; a child, the second user, may execute unblocked applications; a record is kept of the child's activities and provided to the parent, the first user; providing a log from a child to a parent is performing a service from the second user to the first user).

As to claims 4, 8, and 11, Gatz and Walker disclose the invention substantially as in the parent claim, including storing in the profile of the second user attributes that affect the execution of an application in the list (Gatz:[0073]).

(10) Response to Argument

- **Argument 1** (see pages 7-8)

“Walker already allows a user to access a desired program. As such, the problem (i.e., allowing a user to access desired programs) being allegedly solved by Getz [sic] is already addressed by Walker.”

In response to Argument 1, the Examiner points out that Appellant improperly indicates the Examiner “modify[ing] Walker in view of Getz [sic]”. Gatz is actually the primary reference modified in view of Walker, the secondary reference. Therefore, arguing that the modification of Walker with Gatz is improper because Walker already addresses the motivation to combine offered by the Examiner is not relevant or applicable to the actual rejection. Walker’s motivation is provided for the combination of Gatz in view of Walker, and therefore obviously Walker addresses the motivation offered by the Examiner, as Walker is relied upon for the motivation. Walker is not the primary reference as mistakenly believed by Appellant in his arguments. The problem being solved is a problem in Gatz that is solved by Walker. It is not a problem in Walker solved by Gatz as Appellant appears to believe. Examiner will respond now assuming Appellant meant to argue against the combination of Gatz in view of Walker as relied upon by the Examiner.

Appellant has previously argued that the parent of Gatz does not inherently have access to the programs of the child (see page 6, last paragraph beginning “The Examiner did not discharge...” continuing onto the first two lines of page 7). By Appellant’s own

argument, the first user in Gatz may not have access to desired programs. Therefore, the Examiner fails to see how the Appellant can now persuasively argue against the Examiner combining the prior art to address the limitation argued to be missing by Appellant from Gatz. Essentially the Examiner brought in the second art to supply the first user with the lack of access to programs, as argued to be missing by Appellant, and now Appellant is arguing the proffered solution is already addressed by Gatz alone. Basically, the Appellant's own arguments would lead to one assuming that the original rejection of the claim over Gatz alone was proper.

The motivation to combine is valid, as Walker discloses a system in which a first user can access a program and control the access of other users. Whereas, Gatz may be interpreted as only providing control by a first user over other users, without access to the programs themselves. Therefore, combining Gatz with Walker would be reasonable, as a way to provide the first user access to programs, as would typically be desired if a first user is already taking the time to limit the control of such programs. For example, parents who sign up as AOL users typically wish both to have access to their own account, and provide their children limited access under parental supervision.

The Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves

or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, permitting a first user to execute programs being controlled by the first user for a second user as taught by Walker in order to allow a user to access desired programs.

- **Argument 2** (see page 8)

“Neither Walker nor Getz [sic] appear to teach that a list of one or more application [sic] that the parent is permitted to execute since the parent (supervisor, etc.) appears to have access to the application by default.”

In response to argument 2, the Examiner cites the previous response to argument 1: "Appellant has previously argued that the parent of Gatz does not inherently have access to the programs of the child (see page 6, last paragraph beginning “The Examiner did not discharge...” continuing onto the first two lines of page 7). By Appellant’s own argument, the first user in Gatz may not have access to desired programs. Therefore, the Examiner fails to see how the Appellant can now persuasively argue against the Examiner combining the prior art to address the limitation argued to be missing by Appellant from Gatz. Essentially the Examiner brought in the second art to supply the first user with the lack of access to

programs, as argued to be missing by Appellant, and now Appellant is arguing the proffered solution is already addressed by Gatz alone. Basically, the Appellant's own arguments would lead to one assuming that the original rejection of the claim over Gatz alone was proper.”

Appellant has again argued that the parent “appears to have access to the application be default.” Examiner fails to see how the Appellant can argue that the previous rejection based on Gatz alone was improper due to there not inherently being access to the programs, and now argue the exact opposite in argument 2.

Regarding the list of applications as claimed, the Examiner points to the relevant section of the rejection: “([0014], ln. 1-4; [0049], ln. 14-17; [0071]; [0073]; [0074], ln. 8-12; [0075]; a parent has control, through an account based access control system, of access to an information network and may allow no, limited, or full access by a child to applications such as email, chatrooms, message boards, and online shopping; the parent identifies a list of applications that the child is allowed to access, and the parent is allowed to access due to full access rights, under the control of the parent).”

Additionally, the Examiner points to Figure 4 of Gatz and the sections describing it ([0054] - [0056]). These sections clearly show a list maintained for the purpose of a parent or parents controlling a family account. The Examiner points to [0054] of Gatz which states, “a file... includes data representing information used to control the account operation

(including access)" and [0056] which states, "one parent... managing the family account, such as updating information and/or changing passwords."

Furthermore, even assuming that the parent may not have access to the program, Walker was combined above to address this: "Walker discloses permitting a first user to execute the programs being controlled by the first user for the second user (Col. 9, ln. 61 – Col. 10, ln. 4)."

Therefore, the combination of Gatz in view of Walker, would necessarily result in the list of one or more applications in Gatz being modified by Walker's teaching of a first user executing the programs in the list, in order to come to the claimed limitation of "a list of one or more applications that the first user is permitted to execute."

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Brian P. Whipple

/B. P. W./

Examiner, Art Unit 2152

8/16/08

Conferees:

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